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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,550	04/21/2004	Daniel R. Neal	WFS.006CIP	5453
20987 7590 10/10/2007 VOLENTINE & WHITT PLLC ONE FREEDOM SQUARE 11951 FREEDOM DRIVE SUITE 1260 RESTON, VA 20190			EXAMINER STULTZ, JESSICA T	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/828,550

Applicant(s)

NEAL ET AL.

Examiner

Jessica T. Stultz

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 and 51-55 is/are pending in the application:
- 4a) Of the above claim(s) 1-17, 38-41, 46 and 51-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-37, 42-45 and 47 is/are allowed.
- 6) ☒ Claim(s) 18-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National-Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 0404.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Election/Restrictions***

Applicant's election without traverse of Group II, claims 18-37, 42-45, and 47 in the reply filed on July 23, 2007 is acknowledged. Claims 1-17, 38-41, 46, and 51-55 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups I and III, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 23, 2007.

***Specification***

The disclosure is objected to because of the following informalities: Paragraph 1, "patent application 10/369,513, filed on 21 February 2003, the" should be "patent application 10/369,513, filed on 21 February 2003, now US patent 6,908,196, the". Appropriate correction is required.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

Art Unit: 2873

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 18-28 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 10, 17-21, and 23-24 of U.S. Patent No. 6,550,917, herein referred to as Neal et al '917. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 18-28 of the instant application are anticipated or made obvious by claims 1-2, 10, 18-21, and 23-24 of Neal et al '917.

Regarding claim 18, Neal et al '917 discloses a system for measuring an optical characteristic of an optically transmissive object, comprising: a projecting optical system which projects light through an optically transmissive object (Claim 1, wherein light is projected to a the retina of the eye, i.e. and optically transmissive object); a correction system adapted to at least partially compensate a light beam that has been projected through the object for at least one

Art Unit: 2873

optical property of the object (Claim 1); an imaging system adapted to collect the light that has been projected through the object; and a wavefront sensor adapted to receive the light collected by the imaging system and to sense a wavefront of the received light (Claim 1).

Regarding claim 19, Neal et al '917 discloses wherein the object is a lens and the optical property that the correction system compensates for is a focal power of the lens (Claim 10).

Regarding claim 20, Neal et al '917 discloses means for adjusting the compensation applied to the light beam by the correction system (Claims 18-21).

Regarding claim 21, Neal et al '917 discloses the limitations therein (Claim 2).

Regarding claim 22, Neal et al '917 discloses the limitations therein (Claim 23).

Regarding claim 23, Neal et al '917 discloses that the correction system includes at least one variable focal length lens (Claim 17, wherein the correction system is a telescope, i.e. having variable focal length).

Regarding claim 24, Neal et al '917 discloses the limitations therein (Claims 18-21).

Regarding claim 25, Neal et al '917 discloses that the correction system comprises a telescope having two lenses, at least one of said lenses being movable (Claim 17, wherein the correction system is a telescope, i.e. thereby having two lenses, at least one being movable).

Regarding claims 26-28, Neal et al '917 discloses the limitations therein (Claims 18-21 and 23-24).

***Allowable Subject Matter***

Claims 29-37, 42-45, and 47 are allowed.

The following is an examiner's statement of reasons for allowable subject matter: none of the prior art alone or in combination disclose or teach of the claimed combination of limitations

to warrant a rejection under 35 USC 102 or 103.

Specifically regarding independent claim 29, none of the prior art alone or in combination disclose or teach of a method of measuring an optical quality of an optically transmissive object as disclosed, specifically comprising the steps of at least partially compensating a light beam that has been projected through the object for the optical property of the object and sensing a wavefront of collected light at a wavefront sensor.

Specifically regarding independent claim 42, none of the prior art alone or in combination disclose or teach of a method of measuring an optical quality of an optically transmissive object as disclosed, specifically comprising the steps of collecting light passed through a portion of the object and sensing at a wavefront sensor a wavefront of collected light passed through the portion of the object, repeating these steps for a plurality of different portions of the object that together span a target area of the object, and stitching together the sensed wavefronts to produce a complete measurement of the target area of the object.

Specifically regarding independent claim 47, none of the prior art alone or in combination disclose or teach of a method of measuring an optical quality of an optically transmissive object as disclosed, specifically comprising the steps of sensing a wavefront comprising a difference between a wavefront of a collected light and a reference wavefront; changing the distance between the light source and the object; repeating these steps to produce N sensed wavefronts; and stitching together the N sensed wavefronts to produce a complete measurement of the target area of the surface of the object.

Art Unit: 2873

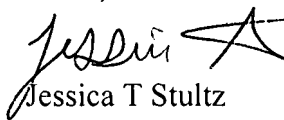
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MacDonald et al US 5,136,413, Neal et al US 6,547,395, and Oono et al US 5,991,102 are cited as having some similar structure to the claimed invention since they disclose optical systems including a projecting optical system and a wavefront sensor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T. Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jessica T Stultz  
Examiner  
Art Unit 2873  
October 1, 2007